

Please Direct All Correspondence to Customer Number 30313

LETTER REGARDING PATENT TERM ADJUSTMENT

Applicant	:	Goddard, et al.
Patent. No	:	7,423,119
Issue Date	:	September 9, 2008
App. No	:	10/063,617
Filed	:	May 3, 2002
For	:	SECRETED AND TRANSMEMBRANE POLYPEPTIDES AND NUCLEIC ACIDS ENCODING THE SAME
Examiner	:	Rome, David S.
Art Unit	:	1647

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT
UNDER 37 C.F.R. § 1.705(d)**

Mail Stop Petition

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants received a Patent Term Adjustment (PTA) for 394 days in the above-identified issued patent. Applicants believe that the calculation of the PTA is incorrect. The patent issued on September 9, 2008, and therefore this request pursuant to 37 C.F.R. § 1.705(d) is timely filed within two months of the issue date.

Along with the issue fee payment, Applicants filed a letter in good faith and candor on January 29, 2008, informing the Office that they believed an error was made in the PTA calculation sent with the Notice of Allowance (Exhibit A). The Office counted this letter as a miscellaneous incoming letter when calculating the final PTA for the issued patent, and reduced the PTA by 63 days, as evidenced in the PTA History obtained from PAIR (Exhibit B).

Applicants submit that their letter of January 29, 2008, filed to satisfy Applicants' duty of candor and good faith with the Office, does not constitute a failure to engage in reasonable

Docket No.: GNE.3230R1C85
Patent No.: 7,423,119
App. No.: 10/063,617

September 29, 2008
Page 2 of 2

efforts to conclude prosecution under 37 C.F.R. § 1.704, and thus the reduction of PTA was improper. Accordingly, Applicants believe that the PTA of the above-referenced patent should be increased by 63 days to 457 days ($394 + 63 = 457$).

Applicants hereby request that the Office correct the calculation of the PTA to reflect 457 days. The present application is not subject to a terminal disclaimer. The \$200 fee prescribed by 37 CFR 1.18(e) is submitted herewith. However, Applicants request that the fee be waived where the mistake in calculating the PTA was made by the Office.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 9/29/08

By: Brenden Gingrich

Brenden Gingrich
Registration No. 60,295
Attorney of Record
Customer No. 30313
(619) 235-8550

EXHIBIT A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Goddard, et al.
Appl. No. : 10/063,617
Filed : May 3, 2002
For : SECRETED AND TRANSMEMBRANE
POLYPEPTIDES AND NUCLEIC
ACIDS ENCODING THE SAME
Examiner : Romeo, David S.
Group Art Unit : 1647

LETTER REGARDING PATENT TERM ADJUSTMENT CALCULATION**MAIL STOP ISSUE FEE**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants received a Patent Term Adjustment of 354 days in the above-referenced patent application. Applicants believe that calculation was done incorrectly, and hereby request that the PTO reconsider and determine the accuracy of the Patent Term Adjustment.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 1/29/08

By: Brenden Gingrich
Brenden Gingrich
Registration No. 60,295
Attorney of Record
Customer No. 30,313
(619) 235-8550

EXHIBIT B

10/063,617 SECRETED AND TRANSMEMBRANE POLYPEPTIDES AND NUCLEIC ACIDS ENCODING THE SAME 09-26-2008::19:48:56

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 10/063,617

Filing or 371(c) Date:	05-03-2002	USPTO Delay (PTO) Delay (days):	605
Issue Date of Patent:	09-09-2008	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL) Delay (days):	211
Post-Issue Petitions (days):	+0	Total PTA (days):	394
USPTO Adjustment(days):	+0	Explanation Of Calculations	

Patent Term Adjustment History

Date	Contents Description	PTO(Days)	APPL(Days)
08-20-2008	PTA 36 Months		
09-09-2008	Patent Issue Date Used in PTA Calculation	103	
07-30-2008	Dispatch to FDC	⬆	
07-30-2008	TC Return to Pubs	⬆	
01-29-2008	Miscellaneous Incoming Letter		63
05-29-2008	Pubs Case Remand to TC		⬆
01-29-2008	Miscellaneous Incoming Letter		⬆
03-31-2008	Email Notification		⬆
03-31-2008	Mail Miscellaneous Communication to Applicant		⬆
03-26-2008	Miscellaneous Communication to Applicant - No Action Count		
03-26-2008	Email Notification		
03-25-2008	Pubs Case Remand to TC		
03-26-2008	Filing Receipt - Corrected		
01-16-2008	Rule 47 / 48 Correction of Inventorship Papers Filed		
02-21-2008	Application Is Considered Ready for Issue		
01-29-2008	Issue Fee Payment Verified		
01-29-2008	Issue Fee Payment Received		
01-17-2008	Document Verification		
11-15-2007	Sequence Forwarded to Pubs on Tape		
11-07-2007	Electronic Review		
11-06-2007	Mail Notice of Allowance		
11-01-2007	Notice of Allowance Data Verification Completed		

11-01-2007	Case Docketed to Examiner in GAU
09-10-2007	Date Forwarded to Examiner
09-06-2007	Response after Ex Parte Quayle Action
07-10-2007	Electronic Review
07-07-2007	Email Notification
07-06-2007	Mail Ex Parte Quayle Action (PTOL - 326)
07-02-2007	Ex Parte Quayle Action
05-24-2007	Information Disclosure Statement considered
05-24-2007	Information Disclosure Statement (IDS) Filed
05-30-2007	Date Forwarded to Examiner
05-24-2007	Amendment after Final Rejection
05-24-2007	Information Disclosure Statement (IDS) Filed
03-01-2007	Electronic Review
02-28-2007	Email Notification
02-27-2007	Mail Final Rejection (PTOL - 326)
02-20-2007	Final Rejection
11-09-2006	Information Disclosure Statement considered
11-09-2006	Information Disclosure Statement (IDS) Filed
11-09-2006	Information Disclosure Statement (IDS) Filed
11-09-2006	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received
11-17-2006	Date Forwarded to Examiner
11-17-2006	Date Forwarded to Examiner
11-09-2006	Request for Continued Examination (RCE)
11-17-2006	DISPOSAL FOR A RCE/CPA/129 (express abandonment if CPA)
11-09-2006	Workflow - Request for RCE - Begin
08-08-2006	Mail Final Rejection (PTOL - 326)
08-07-2006	Final Rejection
05-22-2006	Information Disclosure Statement considered
10-27-2005	Information Disclosure Statement considered
05-22-2006	Information Disclosure Statement (IDS) Filed
05-22-2006	Information Disclosure Statement (IDS) Filed
05-22-2006	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received

05-31-2006	Date Forwarded to Examiner	1
05-31-2006	Date Forwarded to Examiner	↑
05-22-2006	Request for Continued Examination (RCE)	↑
05-31-2006	DISPOSAL FOR A RCE/CPA/129 (express abandonment if CPA)	↑
05-22-2006	Workflow - Request for RCE - Begin	↑
03-20-2006	Mail Examiner's Answer	↑
03-17-2006	Examiner's Answer to Appeal Brief	↑
03-07-2006	Mail Miscellaneous Communication to Applicant	72
03-06-2006	Miscellaneous Communication to Applicant - No Action Count	↑
01-05-2006	Date Forwarded to Examiner	↑
12-27-2005	Appeal Brief Filed	↑
12-07-2005	Correspondence Address Change	↑
10-27-2005	Information Disclosure Statement (IDS) Filed	↑
10-27-2005	Information Disclosure Statement (IDS) Filed	↑
10-27-2005	Notice of Appeal Filed	↑
10-12-2005	Mail Advisory Action (PTOL - 303)	↑
10-11-2005	Advisory Action (PTOL-303)	↑
09-29-2005	Date Forwarded to Examiner	↑
09-26-2005	Amendment after Final Rejection	↑
07-13-2005	Information Disclosure Statement (IDS) Filed	72
07-13-2005	Information Disclosure Statement (IDS) Filed	↑
07-26-2005	Mail Final Rejection (PTOL - 326)	↑
07-25-2005	Final Rejection	↑
05-02-2005	Reference capture on IDS	↑
05-02-2005	Information Disclosure Statement (IDS) Filed	↑
05-02-2005	Information Disclosure Statement (IDS) Filed	↑
05-02-2005	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received	↑
05-02-2005	Rule 47 / 48 Correction of Inventorship Papers Filed	↑
05-11-2005	Date Forwarded to Examiner	↑
05-02-2005	Response after Non-Final Action	75
02-01-2005	Restart Response of action	↑
02-01-2005	Mail Miscellaneous Communication to Applicant	↑

01-31-2005	Miscellaneous Communication to Applicant - No Action Count	↑
01-31-2005	Correspondence Address Change	↑
01-31-2005	Change in Power of Attorney (May Include Associate POA)	↑
11-16-2004	Mail Non-Final Rejection	502
11-15-2004	Non-Final Rejection	↑
06-07-2004	Case Docketed to Examiner in GAU	↑
04-14-2004	IFW TSS Processing by Tech Center Complete	↑
09-13-2002	Reference capture on IDS	↑
09-13-2002	Information Disclosure Statement (IDS) Filed	↑
09-13-2002	Information Disclosure Statement (IDS) Filed	↑
09-10-2002	Preliminary Amendment	↑
04-14-2004	Correspondence Address Change	↑
05-07-2002	CRF Is Good Technically / Entered into Database	↑
07-29-2002	Case Docketed to Examiner in GAU	↑
07-24-2002	Application Dispatched from OIPE	↑
07-23-2002	Application Is Now Complete	↑
07-19-2002	Change in Power of Attorney (May Include Associate POA)	↑
05-16-2002	IFW Scan & PACR Auto Security Review	↑
05-14-2002	IFW Scan & PACR Auto Security Review	↑
05-03-2002	CRF Disk Has Been Received by Preexam / Group / PCT	↑
05-03-2002	Electronic Filing of Original Application Papers	↑
05-03-2002	Initial Exam Team nn	↑

Close Window